

AMENDED IN ASSEMBLY APRIL 15, 2015

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 268

Introduced by Assembly Member Dababneh

February 10, 2015

An act to *amend Section 22305 of, to repeal Sections Section 22304 and 22305 of, and to repeal and add Section 22303 of the Financial Code, relating to consumer loans.*

LEGISLATIVE COUNSEL'S DIGEST

AB 268, as amended, Dababneh. Consumer loans:—~~charges: administrative fees: charges:~~

Existing law, the California Finance Lenders Law, provides for the licensure and regulation of finance lenders and brokers by the Commissioner of Business Oversight and makes a willful violation of its provisions a crime. Under existing law, a finance lender includes any person who is engaged in the business of making consumer loans. With respect to consumer loans of less than a bona fide principal amount of \$2,500, existing law authorizes every licensee under that law who lends money to contract for and receive charges at a rate not exceeding the sum of certain percentages on specified parts of the unpaid principal balance, or at a charge determined by an alternative method.

This bill would repeal those consumer loan provisions and would instead require the commissioner to establish an installment loan rate review process for licensees that intend to offer unsecured full amortizing installment loans of a minimum principal upon origination of at least \$300 and a maximum principal amount of \$2,500. The bill

would require a licensee applying to make loans under this process to provide to the commissioner specified information in order for its loan product to be considered for approval, including information about the proposed loan fees and other charges associated with the loan and the length of the loan.

This bill would require the rate review applications submitted to the commissioner to be in a manner prescribed by the commissioner, and accompanied by a fee, in an amount calculated by the commissioner to cover its administration costs. The bill would provide that an installment loan product approved for a licensee under this process is deemed approved for any licensee in good standing, and would require the commissioner to maintain a list on its Internet Web site of approved loan products.

~~Existing law, in addition to those charges on consumer loans, authorizes a licensee to contract for and receive an administrative fee with respect to a consumer loan of a bona fide principal amount of not more than \$2,500 at a rate not in excess of 5% of the principal amount or \$50, whichever is less, and with respect to a consumer loan of a bona fide principal amount in excess of \$2,500, at an amount not to exceed \$75.~~

~~This bill would repeal that authorization.~~

Because a willful violation of these provisions would be a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 22303 of the Financial Code is repealed.
- 2 SEC. 2. Section 22303 is added to the Financial Code, to read:
- 3 22303. (a) The commissioner shall establish an installment
- 4 loan rate review process for licensees that intend to offer unsecured
- 5 full amortizing installment loans of a minimum principal upon
- 6 origination of at least three hundred dollars (\$300) and a maximum
- 7 principal amount of two thousand five hundred dollars (\$2,500).

1 Rate review applications submitted to the commissioner shall be
2 in a manner prescribed by the commissioner accompanied by a
3 fee to the commissioner, in an amount calculated by the
4 commissioner to cover its costs to administer this section.

5 (b) A licensee applying to make loans under this section shall
6 provide to the commissioner, at a minimum, the following
7 information in order for its loan product to be considered for
8 approval:

9 (1) The proposed loan fees and other charges associated with
10 the loan and the length of the loans.

11 (2) The proposed corresponding annual percentage rate,
12 calculated in accordance with Federal Reserve Board Regulation
13 Z (12 C.F.R. 226).

14 (3) If loans in differing amounts and terms are priced different,
15 a breakdown of those costs in each category.

16 (4) The underwriting standards by which a licensee will make
17 a determination to lend to a borrower.

18 (5) Estimated number of loans that will be made in a year.

19 (6) Estimated rate of return by the licensee based on projections
20 of the proposed loan product and an estimate of loan losses.

21 (7) Whether the licensee plans to report borrower payment
22 performance to the credit reporting agencies.

23 (c) The review of applications under this section by the
24 commissioner shall be conducted in accordance with subdivision
25 (b) of Section 11346 of, and Section 11346.45 of, the Government
26 Code.

27 (d) Any entity that is not licensed under this chapter that wishes
28 to offer loans subject to this section shall submit its application
29 for licensure with the commissioner, in a manner prescribed by
30 the commissioner, along with an application to make loans under
31 this section.

32 (e) An installment loan product approved for a licensee under
33 the process established pursuant to this section shall be deemed
34 approved for any licensee in good standing. The commissioner
35 shall maintain a list on its Internet Web site of approved loan
36 products.

37 SEC. 3. Section 22304 of the Financial Code is repealed.

38 ~~SEC. 4. Section 22305 of the Financial Code is repealed.~~

39 SEC. 4. *Section 22305 of the Financial Code is amended to*
40 *read:*

1 22305. ~~In addition to the charges authorized by Section 22303~~
2 ~~or 22304,~~ a licensee may contract for and receive an
3 administrative fee, which shall be fully earned immediately upon
4 making the loan, ~~with respect to a loan of a bona fide principal~~
5 ~~amount of not more than two thousand five hundred dollars~~
6 ~~(\$2,500) at a rate not in excess of 5 percent of the principal amount~~
7 ~~(exclusive of the administrative fee) or fifty dollars (\$50);~~
8 ~~whichever is less, and with respect to a loan of a bona fide principal~~
9 amount in excess of two thousand five hundred dollars (\$2,500),
10 at an amount not to exceed seventy-five dollars (\$75). No
11 administrative fee may be contracted for or received in connection
12 with the refinancing of a loan unless at least one year has elapsed
13 since the receipt of a previous administrative fee paid by the
14 borrower. Only one administrative fee may be contracted for or
15 received until the loan has been repaid in full. For purposes of this
16 section, “bona fide principal amount” shall be determined in
17 accordance with Section 22251.

18 SEC. 5. No reimbursement is required by this act pursuant to
19 Section 6 of Article XIII B of the California Constitution because
20 the only costs that may be incurred by a local agency or school
21 district will be incurred because this act creates a new crime or
22 infraction, eliminates a crime or infraction, or changes the penalty
23 for a crime or infraction, within the meaning of Section 17556 of
24 the Government Code, or changes the definition of a crime within
25 the meaning of Section 6 of Article XIII B of the California
26 Constitution.